

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

GLEN W. DUCOTE,)	
)	
Petitioner,)	
)	
v.)	Civ.Act.No. 07-374-GMS
)	
THOMAS CARROLL , Warden)	
and JOSEPH R. BIDEN III , Attorney)	
General for the State of Delaware)	
)	
Respondents.)	

MOTION FOR EXTENSION OF TIME

Pursuant to Rule 6 of the Federal Rules of Civil Procedure, respondents move for an extension of time in which to file an answer to the petition. In support thereof, respondents state the following:

1. The petitioner, Glen W. Ducote, has applied for federal habeas relief, alleging error by the state courts. D.I. 1. By the terms of the Court's order, the answer is due to be filed on September 13, 2007.

2. Counsel continues to work on the response to the claims petitioner has raised in his petition. However, due to his current case load, including several capital postconviction matters in state court, counsel needs additional time to complete the response.

3. Under Habeas Rule 4, the Court has the discretion to give respondents an extension of time exceeding the 40-day limit in Civil Rule 81(a)(2). *Clutchette v. Rushen*, 770 F.2d 1469, 1473-74 & n.4 (9th Cir. 1985); *Kramer v. Jenkins*, 108 F.R.D. 429, 431-32 (N.D. Ill. 1985). The comment to Rule 4 expressly states that the district court has "the

discretion to take into account various factors such as the respondent's workload" in determining the period of time that should be allowed to answer the petition.

4. This is respondents' first request for an extension of time in this case.

5. Respondents submit that an extension of time to and including January October 26, 2007, in which to file an answer is reasonable. Respondents submit herewith a proposed order.

/s/Kevin M. Carroll
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, DE 19801
(302) 577-8500
Del. Bar. ID No. 4836
Kevin.Carroll@state.de.us

DATE: September 12, 2007

RULE 7.1.1 CERTIFICATION

I hereby certify that I have neither sought nor obtained the consent of the petitioner, who is incarcerated and appearing *pro se*, to the subject matter of this motion.

/s/ Kevin M. Carroll
Deputy Attorney General

Counsel for Respondents

Date: September 12, 2007

CERTIFICATE OF SERVICE

I hereby certify that on September 12, 2007, I electronically filed the attached documents with the Clerk of Court using CM/ECF. I also hereby certify that on September 12, 2007, I have mailed by United States Postal Service, the same documents to the following non-registered participant:

Glen W. Ducote
No. 210611
Delaware Correctional Center
Smyrna, DE 19977

/s/Kevin M. Carroll
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, DE 19801
(302) 577-8500
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ORDER

This ____ day of _____, 2006,

WHEREAS, respondents having requested an extension of time in which to file an answer, and

WHEREAS, it appearing to the Court that the requested extension is timely made and good cause has been shown for the extension,

IT IS HEREBY ORDERED that respondents' answer shall be filed on or before October 26, 2007.

United States District Judge